

**Notice of Allowability**

Application No.

09/691,273

Examiner

Lynda M Salvatore

Applicant(s)

MARIN ET AL..

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1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 09/07/04.
2. ☒ The allowed claim(s) is/are 2-4, 7-18 and 21-30.
3. ☒ The drawings filed on 18 October 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

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**-DETAILED ACTION**

***Allowable Subject Matter***

1. Applicant's After Final response filed 09/07/04 has been fully considered and entered. As previously set forth in sections 15 and 16 of the last Office Action, claims 2-4, 7-18, and 24-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGinty et al., US 6,117,801 in view of Blades et al., 3,081,519 and claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGinty et al., US 6,117,801 in view of Blades et al., 3,081,519 and further in view of Bisbis et al., US 5,919,539. However, since Applicant's invoked 35 U.S.C. 103(c), the relied upon primary reference of McGinty et al., no longer qualifies as prior art under 35 U.S.C. 103(a). Accordingly, these rejections are hereby withdrawn.

In addition, Applicant's also invoked 35 U.S.C. 103(c) with regard to U.S. 2002-0004351 A1. In response to a telephone interview on October 5<sup>th</sup>, 2004, Applicant's submit that the Nobbee et al., reference and the presently claimed invention were subject to common ownership at the time of the present invention. Thus, a rejection over Nobbee et al., would be improper under 35 U.S.C. 103(c).

2. The following is a statement of reasons for the indication of allowable subject matter: Claims 2-4, 7-18, and 21-30 are found allowable over the prior art made of record. Specifically, no teaching or suggestion was found to a polyethylene plexi-filamentary fiber strand produced by a process comprising flash spinning a solution of 12% to 24% by weight polyethylene in spin agent consisting of a mixture of normal pentane and cyclopentane at a spinning temperature from about 205°C to 220°C to form said plexi-filamentary fiber strand having a surface area of less than 10 m<sup>2</sup>/g and a crush value of at least 1 mm/g. Additionally, no teaching or suggestion was

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found to a non-woven formed from the above plexi-filamentary strands having a combination of Frazier Permeability, normalized to 1.0 oz/yd<sup>2</sup> basis weight, of at least 2 cfm/ft<sup>2</sup>, surface area of less than 10 m<sup>2</sup>/g, a crush value of at least 1 mm/g, hydrostatic head of at least 110 cm and a Gurley Hill Porosity of less than 6 seconds.

***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1482. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 29, 2004

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CHERYL A. JASKA  
PRIMARY EXAMINER